

REMARKS

After entry of the present Amendment, claims 1-9 and 28-33 remain in the present application, with claims 1 and 28 in independent form. Independent claim 1 has been amended to incorporate the allowable elements of original claim 3, but with the elements of original claim 3 revised to remedy the defects that resulted in the prior rejection under 35 U.S.C. §112. Claims 5-9 have been amended for grammar. Claim 3 has been cancelled. Claims 10-27 were previously cancelled as non-elected claims that were subject to a Restriction Requirement. Claims 28-33 have been added, with new independent claim 28 claiming the allowable subject matter represented by the elements of original claim 5 in combination with the elements of original claim 1. New claims 29-33 are identical to original claims 2 and 6-9, respectively, but depend from new claim 28. No new matter has been added through the present amendments.

To further explain the amendments to original claim 3 as they now apply to amended independent claim 1, the previously claimed “Cu-Zn-Al **type** memory alloy filler” (emphasis added) is now claimed as a “Cu-Zn-Al memory alloy filler”, with the word “type” removed. No new matter is added by removing the word “type” from original claim 3 as now applied to amended independent claim 1.

The Examiner has indicated that the subject matter of claim 3, as well as the subject matter of claims 5-7, is allowable. Thus, in view of the amendments to the claims, in which the subject matter of claim 3 has been amended into independent claim 1 and new claim 28 includes each and every element of independent claim 1 and original claim 5, the Applicants respectfully submit that the independent claims 1 and 28 are allowable, which allowance is respectfully requested.

While it is believed that no fees are currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2789 in the name of Howard & Howard.

Respectfully submitted,
HOWARD & HOWARD ATTORNEYS, P.C.

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/David M. LaPrairie/
David M. LaPrairie, Registration No. 46,295
The Pinehurst Office Center, Suite 101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151
(248) 723-0442